

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 117-351

GOLDSPINK et al.

C# M#

Serial No. 09/852,261

Group Art Unit: 1647

Filed: May 10, 2001

Examiner: Nichols, Christopher J.

Title: REPAIR OF NERVE DAMAGE

Date: October 8, 2002

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment	0	minus highest number		
previously paid for	20	(at least 20) =	0 x \$ 18.00	\$ 0.00
Independent claims after amendment	0	minus highest number		
previously paid for	3	(at least 3) =	0 x \$ 84.00	\$ 0.00
If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper)				\$ 0.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months)				\$ 110.00
Terminal disclaimer enclosed, add \$ 110.00				\$ 0.00
<input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00)				\$ 0.00
<input type="checkbox"/> Please enter the previously unentered , filed				
<input type="checkbox"/> Submission attached				
			Subtotal	\$ 110.00
If "small entity," then enter half (1/2) of subtotal and subtract				-\$ 0.00
<input type="checkbox"/> Applicant claims "small entity" status. <input type="checkbox"/> Statement filed herewith				
Rule 56 Information Disclosure Statement Filing Fee (\$180.00)				\$ 0.00
Assignment Recording Fee (\$40.00)				\$ 0.00
Other: Response				0.00

TOTAL FEE ENCLOSED \$ 110.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 

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For: REPAIR OF NERVE DAMAGE

* * * * *

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Sir:

RESPONSE

Responsive to the Official Action dated August 8, 2002, the applicants elect, with traverse, the subject matter of the Examiner's Group I, for further prosecution in the above.

Reconsideration and withdrawal of the restriction requirement, and examination of all the claimed subject matter, are requested for any of the following reasons.

The Restriction Requirement should be withdrawn as the Examiner has not sufficiently supported the Examiner's assertion that the claims present six separately patentable inventions. That is, the Examiner has not indicated by appropriate reliance on scientific or technical evidence that the separately identified Groups of subject matter are distinct, such as by showing the subject matter has attained recognition in the art as a separate subject for inventive effort and that a separate field of search is required, such as may be the basis for a restriction requirement pursuant to MPEP §808.02.

In fact, the Examiner has admitted that a search of the subject matter of the Examiner's Groups I-IV will be co-extensive, and require search of the same Class and only two Subclasses (i.e., Class 514, subclass 2 for Groups I, II and IV and Class 514, Subclass 44 for Group III). Accordingly, a search of at least Groups I-IV will not require an undue effort of the Examiner and the Examiner's indication of the same Class and Subclass demonstrates that the subject matter of the indicated Groups have not attained recognition in the art as a separate subject for inventive effort.

The subject matter of the Examiner's Groups I-IV should, at a minimum, be combined and searched.

Moreover, the applicants note that the claims of the Examiner's Groups II-V are dependent on claim 1 (i.e., included in the Examiner's Group I) such that a search of the subject matter of the Examiner's Group I will include a search of the subject matter of the Examiner's Groups II-V. The restriction requirement should be withdrawn, at least with regard to the Examiner's Groups II-V and the subject matter of the Examiner's Groups II-V should be combined and examined with the subject matter of the elected Group I.

Further, the Examiner's separate Grouping of the subject matter of Groups II-IV (i.e., claims 7 and 8) may deny the applicants the opportunity to amend their claims during prosecution to recite the subject matter of originally-filed dependent claims 7 and/or 8, as to do so, if the Examiner's restriction requirement is maintained, may cause the Examiner to assert that such subject matter has been withdrawn from consideration and may only be pursued in a separate divisional application. Such a result would be

unjust. The subject matter of the Examiner's Groups II-IV should be examined with the elected subject matter of Group I.

Finally, the applicants submit that the kit of claim 13, included separately to define the Examiner's Group VI, contains the elements required to practice the method of the elected Group I such that a search of the elected Group will include a search of the kit of the Examiner's Group VI. Reconsideration and withdrawal of the restriction requirement as to the Examiner's Groups I and VI are requested

The subject matter of the Examiner's Groups I-VI are submitted to define a single invention and examination of all the claimed subject matter is requested. Alternatively, at least the subject matter of the Examiner's Groups I-V should be examined together. At a minimum, the applicants believe the subject matter of the Examiner's Groups I-IV define a single invention and should be examined in the present application.

Reconsideration and withdrawal of the restriction requirement, and an early and favorable Action on the merits of all the claimed subject matter are requested.

The Examiner is requested to confirm, in his next Action, receipt of the certified copy of the priority document filed June 5, 2001 and acknowledge the claim for foreign priority.

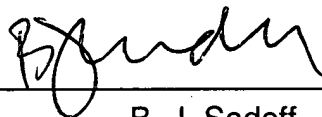
Return of an initialed copy of the PTO 1449 Forms filed October 5, 2001 and December 14, 2001, pursuant to MPEP § 609, is requested.

Authorization to amend the figures as indicated in the Request of December 14, 2001, in the Examiner's next Action is requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



B. J. Sadoff
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